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Attorney Docket No: 926500/920966 (6500-1801.2)
PATENT

Expedited Handling
After Final Rejection

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Galen M. Gareis

Serial No.: 09/929,613

Art Unit: 2831

Filed: August 13, 2001

Examiner: William H. Mayo, III

For: CABLE SEPARATOR SPLINE

REQUEST FOR RECONSIDERATION AFTER FINAL REJECTION

(Box Non-Fee Amendment)
Honorable Assistant Commissioner for
Patents
Washington, D.C. 20231

Sir:

In response to the Final Rejection of April 8, 2003, the Examiner is requested to reconsider the rejection therein for the following reasons:

REMARKS

While applicant does not agree that a new declaration is necessary, such is filed herewith as requested.

Reconsideration of the rejection of claims 1-6 under 35 U.S.C. 103(a) over Ikeda et al. is requested. The Examiner correctly states that Ikeda does not disclose:

1. That the major axis has a length greater than the minor axis (claims 1-6)
2. That each of the pockets have a cross-sectional area which is 75% or less than the cross sectional area of the circular envelope of the cable that is to be placed in the pocket (claims 3 & 5).

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3. That the first and second pockets have a depth greater than the depth of the third and fourth pockets and wherein each of the pockets have a cross-sectional area which is 25 - 75% of the cross sectional area of the circular envelope of the cable that is to be placed in the pocket (claims 6).

The above distinctions of applicant's invention are not disclosed nor are there any suggestions that such a spline should be so constructed. For a proper rejection under 35 U.S.C. 103 to one skilled in the art, the prior art must suggest the changes and reasons for the changes. The suggestions can not come from applicant's application. Using applicant's disclosure constitutes an improper "hindsight" rejection.

Ikeda discloses that his spline totally surrounds the pair of conductors in each pocket and that his illustrated spline does not have a major axis with a length greater than the minor axis. Further, Ikeda only shows that all pockets are the same size and larger than the cross-sectional of the circular envelope of the cable that is to be in the pockets. These pockets of Ikeda are not 75% or less than the cross-sectional of the circular envelope of the conductor pair and nowhere does Ikeda suggest this. Further, while Ikeda indicates that a different configuration for the spacer 1 is possible, Ikeda indicates to one skilled in the art that all four pockets are to be the same. Nowhere other than in applicant's disclosure is different axis length, different areas, size of the pockets versus cable size, or different lengths indicated. Contrary to the contention of the rejection that "all types of variations in the design are included." Ikeda only states "that the shapes are not limited to typical ones. For example, a section square or polygonal body may as well be adopted as a shape of the spacer." Thus changes in other configurations of the spacer 1 does not indicate there should be any change in the items the Examiner references as missing in Ikeda. Thus, the Examiner's contention the differences would be obvious is a conclusion rather than a reason and fails under the

obvious doctrine of 35 U.S.C. 103. See the attached Ex Parte Garrett decision. Accordingly, reconsideration of this rejection is requested.

The Examiner is thanked for the courtesies extended during the recent telephone interview wherein the above comments were discussed.

It is respectfully submitted that the application is now in condition for allowance and it requested that the Final rejection be withdrawn and a notice of allowance issued.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees, be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 02-1010 (926500-920966).

Respectfully submitted,

BARNES & THORNBURG



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